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5 UNITED STATES DISTRICT COURT  
6 EASTERN DISTRICT OF WASHINGTON

7 DONALD R. HUNT,

8 Plaintiff,

9 v.

10 ISRAEL R. GONZALEZ; JEFFERY  
11 UTTECHT; DAVID BAILEY; LAURA  
12 SHERBO; JACQUELINE L. FLUAITT;  
13 LORI WONDERS; CHE; MICHAEL ZWICKY;  
AND 1 TO 20 UNKNOWN JOHN OR JANE  
DOES,

14 Defendants.

No. 4:16-CV-5125-EFS

**ORDER DENYING PLAINTIFF'S MOTION  
FOR RECONSIDERATION**

15  
16 Before the Court, without oral argument, is Donald R. Hunt's  
17 Objection and Motion to Court for Reconsideration, ECF No. 64. Mr.  
18 Hunt moves the Court to reconsider its July 20, 2017 Order Granting  
19 Defendants' Motion for Summary Judgment, ECF No. 60, and the  
20 subsequent Judgement entered in favor of Defendants, ECF No. 61.  
21 Defendants have filed a response to the Motion to Reconsider. ECF No.  
22 65. Having reviewed the pleadings and the file in this matter, the  
23 Court is fully informed and denies the Motion.

24 A motion for reconsideration is "appropriate if the district  
25 court (1) is presented with newly discovered evidence, (2) committed  
26 clear error or the initial decision was manifestly unjust, or (3) if

1 there is an intervening change in controlling law." *Sch. Dist. No. 1J*  
2 *v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). "[A] motion for  
3 reconsideration should not be granted, absent highly unusual  
4 circumstances," and may not be used to raise arguments or present  
5 evidence for the first time when they could reasonably have been  
6 raised earlier in the litigation. *389 Orange St. Partners v. Arnold*,  
7 179 F.3d 656, 665 (9th Cir. 1999); *Kona Enters., Inc. v. Estate of*  
8 *Bishop*, 229 F.3d 877, 890 (9th Cir. 2000).

9 Here, Plaintiff indicates that he is moving for reconsideration  
10 in order to correct a clear error or prevent manifest injustice. ECF  
11 No. 64 at 2.

12 First, Plaintiff argues that the Court disregarded facts and  
13 evidence in order to find in favor of Defendants. ECF No. 64 at 3.

14 Second, Plaintiff argues that the Court inappropriately relied  
15 on Defendants' attestations to find that the restrictions on carbon  
16 paper, compact discs, and calendars satisfied the standard set out in  
17 *Turner v. Safley*, 482 U.S. 78 (1987). ECF No. 64 at 3. Plaintiff  
18 argues that Defendants' statements regarding penological objectives  
19 "do not provide factual evidence." ECF No. 64 at 3. Plaintiff then  
20 repeats arguments that he has previously made related to the  
21 restrictions. ECF No. 64 at 3-11.

22 Third, Plaintiff argues that the Court committed error by  
23 finding in favor of Defendants on Plaintiff's claims related to  
24 grievances because prison grievance practices "chill Plaintiff's First  
25 Amendment rights which denies meaningful access to the courts." ECF  
26

1 No. 64 at 11-13. Plaintiff also argues that the Court mischaracterized  
2 the alleged retaliation by Defendant Fluaidd. ECF No. 64 at 13-14.

3 Fourth, Plaintiff argues that the Court erred in finding that  
4 Plaintiff suffered no actual injury due to claimed restrictions on his  
5 access to the courts based on alleged deficiencies of the prison law  
6 library. ECF No. 64 at 14-16. Plaintiff argues that he suffered an  
7 actual injury in that his child support case was dismissed when he was  
8 denied priority access to the law library. ECF No. 64 at 17-20.  
9 Plaintiff also argues that the Court incorrectly concluded that  
10 Defendant Sherbo did not have a duty to Plaintiff. ECF No. 64 at 16-  
11 17. In addition, Plaintiff asserts that the Court erred in finding  
12 that the law library's failure to include all resources on the  
13 Washington resource list and the alleged inadequacy of the Lexis legal  
14 database did not result in a violation of Plaintiff's constitutional  
15 rights. ECF No. 64 at 20-22, 24. Finally, Plaintiff argues that the  
16 Court erred regarding Plaintiff's claim that Defendants were  
17 deliberately indifferent in their behavior related to the law library.  
18 ECF No. 64 at 22-24.

19 After reviewing the pleadings, the record in this matter, and  
20 applicable authority, the Court is fully informed and finds that  
21 Plaintiff has not met the standard for reconsideration. The Court  
22 continues to find that Plaintiff did not suffer a deprivation of  
23 rights warranting relief.

24 Regarding Plaintiff's first argument, the Court fully considered  
25 all facts and evidence in the record.

1       As to Plaintiff's second argument, the Court continues to find  
2 that the restrictions on carbon paper and compact discs do not result  
3 in a violation of Plaintiff's rights. In addition, the restrictions on  
4 carbon paper, compact discs, and calendars are permissible under the  
5 *Turner v. Safley* test. Whether this test is satisfied is a question of  
6 law, and the Court finds, as reflected in its prior order, that  
7 Defendants produced sufficient evidence to support the regulations  
8 under the *Turner* test.

9       Third, the Court continues to find that Plaintiff's rights were  
10 not violated by practices related to the grievance system. Plaintiff's  
11 claims generally relate to grievance processes that he dislikes or  
12 disagrees with, and, as the Court found in its prior order, these  
13 claims are barred by the fact that prisoners do not have a right to a  
14 specific grievance procedure. *Mann v. Adams*, 855 F.2d 639, 640 (9th  
15 Cir. 1988); see also *Ramirez v. Galaza*, 334 F.3d 850, 860 (9th Cir.  
16 2003). As reflected in the Court's prior order, to the extent  
17 Plaintiff argues that prison officials have not filed complaints or  
18 lost complaints, the Court continues to find that Plaintiff did not  
19 produce evidence of those practices or otherwise plead those claims  
20 with sufficient specificity to establish a genuine dispute of material  
21 fact. The Court also continues to find that Defendant Fluaidd's letter  
22 to Plaintiff threatening infraction if Plaintiff continued to file  
23 multiple grievances on the same topic was appropriate under prison  
24 grievance guidelines and did not constitute retaliation.

25       Finally, regarding Plaintiff's fourth argument, the Court  
26 continues to find that Plaintiff failed to establish a cognizable

1 injury to his right of access to the courts. While Plaintiff's child  
2 support case was dismissed, Plaintiff did not provide any evidence of  
3 how he would have avoided dismissal had he been permitted access to  
4 the law library. More importantly, Plaintiff's child support case is  
5 not the type of case for which prisoners are guaranteed a right of  
6 access to the courts. *See Hebbe v. Pliler*, 627 F.3d 338, 342-43 (9th  
7 Cir. 2010) (explaining law library access is only constitutionally  
8 required in direct appeals from incarcerating convictions or actions  
9 vindicating "basic constitutional rights." (quoting *Lewis v. Casey*,  
10 518 U.S. 343, 354, (1996))).

11 In addition, the Court continues to find that the prison law  
12 library's failure to provide all resources included on the Washington  
13 resource list did not violate Plaintiff's right of access to the  
14 courts or Plaintiff's due process rights. The Court also continues to  
15 find that Plaintiff failed to establish an Eighth Amendment claim  
16 because, even if Defendants had been deliberately indifferent – and  
17 the Court continues to find that Defendants were not indifferent –  
18 Plaintiff was not deprived of the "minimal civilized measure of life's  
19 necessities" as required to prove an Eighth Amendment violation. *See*  
20 *Farmer v. Brennan*, 511 U.S. 825, 834 (1994). Finally, the Court  
21 continues to find that Defendant Sherbo did not owe a duty to  
22 Plaintiff to provide him with access to the courts because that duty  
23 is owed by prison officials alone. Regardless, even if Defendant  
24 Sherbo did owe a duty to Plaintiff, the Court continues to find that  
25 such a duty was not violated.

26 /

1 As such, the Court finds Plaintiff has failed to demonstrate the  
2 Court committed clear error by granting Defendants' Motion for Summary  
3 Judgment or that doing so was manifestly unjust. *See Sch. Dist. No.*  
4 *1J*, 5 F.3d at 1255. Nor are Plaintiff's circumstances highly unusual.  
5 *See 389 Orange St. Partners*, 179 F.3d at 665.

6 Accordingly, **IT IS HEREBY ORDERED:**

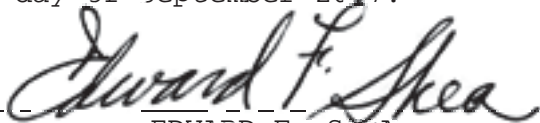
7 **1.** Plaintiff Donald R. Hunt's Objection and Motion to Court  
8 for Reconsideration, **ECF No. 64**, is **DENIED**.

9 **2.** The Court's prior Order Granting Defendants' Motion for  
10 Summary Judgment, **ECF No. 60**, **REMAINS** in effect.

11 **3.** This case shall remain **CLOSED**.

12 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this  
13 Order and provide copies to Plaintiff and all counsel.

14 **DATED** this 19th day of September 2017.

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EDWARD F. SHEA  
17 Senior United States District Judge